

House Bill 1378

By: Representatives England of the 108<sup>th</sup>, Royal of the 171<sup>st</sup>, McCall of the 30<sup>th</sup>, Crawford of the 127<sup>th</sup>, Hill of the 180<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide a graduated exemption for biodiesel fuels from sales and use taxes; to provide a graduated exemption for biodiesel fuels from motor fuel taxes; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by striking Code Section 48-8-3.1, relating to exemption from sales and use taxes as to motor fuels, and inserting in lieu thereof the following:

"48-8-3.1.

(a) Except as provided in ~~subsection (b)~~ subsections (b) and (b.1) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent of the sales and use taxes levied or imposed by this article and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel other than gasoline which motor fuel other than gasoline is purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent sales and use taxes levied or imposed by this article unless otherwise specifically exempted by subsection (b.1) of this Code section or any other provision of this article.

(b.1) During the period of July 1, 2007, through June 30, 2011, sales of all biodiesel fuel sold as motor fuel for use in propelling motor vehicles on or off of public highways shall be exempt from that percentage of the sales and use taxes levied or imposed by this article in the same percentage as that percentage of the volume of such biodiesel fuel which is derived from biomass and not petroleum. By way of example only and not limitation, a

biodiesel fuel of which 2 percent by volume is derived from biomass and not petroleum shall be exempt from 2 percent of the total amount of taxes otherwise collected on such fuel under this article. For purposes of this subsection, the term 'biodiesel fuel' means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from crops, residues, stover, agricultural wastes, or animal fats and meeting the requirements of American Society of Testing and Materials standard D 6751 and derived from BQ-9000 certified producers and marketers.

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel wholly or partially subject to taxation under this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes."

## SECTION 2.

Said title is further amended in Code Section 48-9-3, relating to the levy of excise taxes on motor fuels, in subsection (b) by striking "or" at the end of paragraph (9); by striking the period at the end of paragraph (10) and inserting in its place "; or"; and by adding a new paragraph immediately following paragraph (10), to be designated paragraph (11), to read as follows:

"(11) During the period of July 1, 2007, through June 30, 2011, sales of all biodiesel fuel sold as motor fuel for use in propelling motor vehicles on or off of public highways shall be exempt from that percentage of the sales and use taxes levied or imposed by this article in the same percentage as that percentage of the volume of such biodiesel fuel which is derived from biomass and not petroleum. By way of example only and not limitation, a biodiesel fuel of which 2 percent by volume is derived from biomass and not petroleum shall be exempt from 2 percent of the total amount of taxes otherwise collected on such fuel under this article. For purposes of this subsection, the term 'biodiesel fuel' means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from crops, residues, stover, agricultural wastes, or animal fats and meeting the requirements of American Society of Testing and Materials standard D 6751 and derived from BQ-9000 certified producers and marketers."

## SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.